

VZCZCXRO3601
PP RUEH DU RUEHMR RUEHRN
DE RUEHWD #0337/01 2981545
ZNY CCCCC ZZH
P 241545Z OCT 08
FM AMEMBASSY WINDHOEK
TO RUEHC/SECSTATE WASHDC PRIORITY 0128
INFO RUCNSAD/SOUTHERN AFRICAN DEVELOPMENT COMMUNITY PRIORITY
RUEHLMC/MILLENNIUM CHALLENGE CORP PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 WINDHOEK 000337

SIPDIS

E.O. 12958: DECL: 10/24/2018
TAGS: [KMCA](#) [PGOV](#) [ECON](#) [WA](#)
SUBJECT: NAMIBIA MCA COMPACT: THE HARD ROAD TO RATIFICATION

REF: A) WINDHOEK 335 B) WINDHOEK 331

WINDHOEK 00000337 001.2 OF 002

Classified By: Charge d'affaires, a.i. Matt Harrington for reasons 1.4
(b) and (d).

- - - -
Summary
- - - -

¶1. (C) Charge d'affaires called on Namibia's Millennium Challenge Account (MCA) Compact lead negotiator Franz Kapofi on October 23 to discuss the prospects for the Compact's ratification before Parliament's December-January recess. Charge emphasized that failure to ratify the Compact before the recess could put the funding at risk. Kapofi lamented that critics of the MCA program are likely winning in the court of Namibian public opinion at the moment. While some senior leaders have innocently misconstrued aspects of the MCA Compact, Kapofi argued other critics (politicians) have deliberately distorted the Compact for their own political gain. These critics, he noted, have resorted to rekindling old "Cold War, anti-U.S." rhetoric - which still resonates amongst many Namibians. Kapofi explained that he and his negotiating team of civil servants have now been thrust into the position of having to explain to the "politicians" the benefits of the MCA program and the legal implications of international agreements, even though the "politicians" had been fully briefed throughout the two-year Compact negotiation process. Kapofi has until November 13, when Parliament is set to resume debate on the Compact -- to clear up lingering questions and to wrap up negotiation of the pending Program Implementation Agreement (PIA) and tax agreement. Despite the criticisms raised to date, Kapofi expressed optimism that the Compact would be ratified. End Summary.

- - - - -
Pressing the GRN to Act
- - - - -

¶2. (C) Charge met with the Namibian Government's (GRN) lead negotiator on the Millennium Challenge Account (MCA), Secretary to the Cabinet Frans Kapofi, on October 23, to discuss the status of the ratification of the MCA Compact. Charge was accompanied by the MCC Country Director and econoff. Charge stressed that failure to ratify the Compact before the Parliament's adjournment at the end of November could put the program at risk. He made it clear the U.S. side is prepared to be helpful in any way we can, and he encouraged the GRN to respond more forcefully to the questions raised about the substance of the Compact -- as well as the related Program Implementation Agreement (PIA) and tax agreement. (Note: The SWAPO Youth League and other critics have distorted language in the Compact and the draft PIA to support their claim that the USG would purchase Namibia's "natural treasures." The critics have focused on the Compact's language exempting MCC from taxation and legal liability, the requirement that private tour operators and conservancies be granted tourism concessions adjacent to Etosha National Park and other parks, or exclusive access to Etosha and other parks, and the supremacy of the MCA compact over Namibian law (except for the constitution) End Note).

- - - - -

13. (C) Kapofi responded that he was "frustrated" with the state of affairs, noting that many of the accusations are the result of people "misconstruing" certain aspects of the Compact and PIA. He noted that even "people in government at the Cabinet level express misgivings (about MCA)." Kapofi seemed perplexed by the attacks on the MCA program, noting that Cabinet and many other senior officials were privy to the details the MCA negotiating process as it occurred. He remarked "I have never seen this (attacks on a major assistance package) before, and I have been in government since 1990."

14. (C) Kapofi expressed consternation that some critics (mostly at th Deputy Minister level) are deliberately attacking the MCA for political reasons, in the hopes of raising their political stature. (Comment: Kapofi was likely referring to Deputy Minister of Regional and Local Government Kazenambo Kazenambo, a former SWAPO Youth League executive committee member and Public Relations Manager for Namibian Wildlife Resorts -- who is the only GRN official who has been openly critical of the Compact, and who some believe leaked the draft PIA to the press. End Comment). Kapofi noted these people are "reinforcing the perception (that the USG is behind) a grand plot to gain a foothold in Namibia." Kapofi remarked that "We are back to Cold War politics," noting that some senior officials are rehashing the 1980s when many in the ruling SWAPO party saw the USG as on the "wrong side" of the liberation struggle.

Public Believes the Criticisms

15. (C) Kapofi acknowledged the attacks on the MCA were "reckless" but that they had gained traction with the Namibian public. He speculated that many Namibians had bought into some of the erroneous allegations

WINDHOEK 00000337 002.2 OF 002

about the Compact. He expressed his view that, if Parliament voted "today" (October 23) the MCA Compact would not be ratified. (Note: There was, in fact, a brief discussion in Parliament of the MCA Compact on October 23. Despite claims in the press that the ruling party would withdraw the Compact altogether, Parliament decided to postpone further debate until November 13. End Note.) Despite the hiccups, Kapofi said he thought Parliament would, in the end, ratify the Compact before the December-January recess.

Next Steps

16. (C) In discussing the road ahead, Kapofi stressed that his team would endeavor to resolve all lingering concerns in the two weeks before Parliament formally considers ratification. The first step, Kapofi noted, was to "scrub" the current draft of the PIA and tax agreement to make it more palatable for the "politicians." Kapofi noted that the issue of Etosha concessions, exemption from taxation and liability, and the supremacy of the MCA Compact over Namibian law are the thorniest issues to overcome. Once his team had managed to secure clearance at the political level of the GRN,s proposed amendments to the PIA and tax agreement, Kapofi and his team would be able to share them with the U.S. side. Kapofi commented that Namibia was "not attempting to reopen the Compact, as yet." He added that he and other "bureaucrats" who value the program were "doing (their) best to salvage the agreement."

17. (C) Charge emphasized that the USG was not prepared to reopen negotiations over the Compact, an agreement that had taken two years to complete. The MCC Director suggested that the Namibian negotiating team keep the USG in the loop on its proposed changes to the PIA and tax agreement throughout the process, as that could facilitate and speed up U.S. approval. The MCC Director explained that the USG,s approval process could take as long as the GRN's process and that Kapofi's team should factor in time for the USG to review any proposed changes.

Comment

18. (C) Kapofi's candid comments regarding the status and politicization of the MCA program were the most direct we have heard to date from a senior GRN official. While ratification of the Compact still appears likely, it is clear that Kapofi and his team have their work cut out for them. We believe Kapofi will make good faith efforts to sell the program to the "politicians" he serves.

19. (C) In a call to Prime Minister Angula on October 24, we understand that MCC CEO Ambassador Danilovic underscored the importance of finalizing the PIA and tax agreement and ratifying the Compact before the late November recess. Angula was receptive and pledged to make his technical staff in the relevant ministries available to finalize the outstanding agreements.

HARRINGTON